

# Capital Reporting Company

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BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
OFFICE OF HEARINGS  
WASHINGTON, D.C.

**ORIGINAL**

IN THE MATTER OF: )  
 ) Docket No. FMCSA-2007-0089  
ACCENT MOVERS, INC., )  
 ) (Southern Service Center)  
Respondent )  
\_\_\_\_\_ )

TRANSCRIPT OF HEARING  
VOLUME 1  
MONDAY, JUNE 15, 2009

DEPT OF TRANSPORTATION  
INVESTIGATIVE  
JUN 15 2009

THE EVIDENTIARY HEARING in the above-styled and numbered cause was heard before the Honorable Richard C. Goodwin on the 15th of June, 2009, reported by Karen L. Shelton, CSR/RDR/CRR, of Capital Reporting Company, at the offices of the National Transportation Safety Board, 624 Six Flags Drive, Suite 150, Arlington, Texas, beginning at 9:22 a.m., when were present on behalf of the respective parties:

A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

HONORABLE RICHARD C. GOODWIN  
U.S. DEPARTMENT OF TRANSPORTATION  
OFFICE OF HEARINGS  
Room 12-320  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590  
(202) 366-5121

FOR THE AGENCY:

MS. NANCY JACKSON  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
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FOR THE RESPONDENT:

MR. JOHN L. GAMBOA  
ACUFF & GAMBOA, LLP  
2501 Parkview Drive  
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Fort Worth, Texas 76102  
(817) 885-8500

ALSO PRESENT:

Mr. Shane Gibson  
Ms. Joanne Cisneros  
Mr. Mario Leal  
Mr. Jeffrey Langloss

# Capital Reporting Company

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1 PROCEEDINGS

2 \* \* \*

3 THE COURT: We're on the record.

4 Counsel, identify yourself for the record.

5 MS. JACKSON: Thank you, your Honor. My  
6 name is Nancy Jackson. I represent the claimant in  
7 this matter, the field administrator for the Southern  
8 Service Center of Federal Motor Carrier Safety  
9 Administration.

10 THE COURT: And you're here and ready to  
11 proceed?

12 MS. JACKSON: Yes, your Honor.

13 THE COURT: Have you heard anything from  
14 the respondent?

15 MS. JACKSON: I have not. The last  
16 contact I had was after I filed my motion for summary  
17 judgment and the motion for stay or continue the  
18 hearing, his assistant called me to let me know that  
19 they had no objection to the motion for continuance or  
20 stay of the hearing. I told her I would transmit that  
21 information to your legal adviser. I did. I also gave  
22 her the number for Ira, and that is the last I have  
23 heard from Mr. Gamboa or anyone at his firm. And that  
24 was the Monday after I filed.

25 THE COURT: Here's what I'd like to do

1 just as a precaution. I'm going to ask you on behalf  
2 of the Court to call him to make sure they didn't think  
3 that we were going to continue the matter.

4 MS. JACKSON: Okay.

5 THE COURT: And if they did, then we'll  
6 address that. You had filed a motion, which I just  
7 received. The box we got into was you filed a motion  
8 with a return or with a response date after the  
9 hearing. But one of your motions was to take testimony  
10 by phone. We don't have a response from the  
11 respondent, but let me just -- this isn't a ruling, but  
12 let me tell you my thoughts off the top of my head.

13 I'm reluctant to take it by phone, but I  
14 think there may be a way that we can accomplish the  
15 same thing. Judge Mullins just let me know that in  
16 cases that he has had, he's done teleconferencing  
17 through the auspices of the bankruptcy court. I also  
18 know that Social Security Administration has  
19 videoconferencing. So I think what I would certainly  
20 not have a problem doing is -- and I can take the lead  
21 on this or we can do it together -- set up some  
22 teleconferencing.

23 MS. JACKSON: Okay.

24 THE COURT: I'm sensitive to the  
25 allegations in the motion. But I think it's an issue

1 we can work out.

2 MS. JACKSON: Okay. I also was  
3 contacted -- I had been trying to get ahold of  
4 Ms. Coogan for several days when I filed that motion.  
5 She actually called me on Friday to let me know that  
6 although she is in Wisconsin taking care of her mother,  
7 she's actually in Texas this week putting new renters  
8 in her house that is the subject of this move. So  
9 she's about 50 miles away from here. She has said she  
10 will come in if we get to that point.

11 THE COURT: That's the other thing we  
12 can do. These are administrative hearings. And if you  
13 read my decisions, you'll find that I told counsel in a  
14 number of cases if you can get the truck in the door,  
15 I'll put it into evidence. And I think because they're  
16 administrative hearings, within the context of giving  
17 people due process, I'm not stuck to some regimen. I  
18 certainly have no problem taking witnesses out of  
19 order, evidence out of order, and I've done it.

20 And you need to look no further than the  
21 Southwest Airlines versus Los Angeles World Airways  
22 case where we pick an air carrier, they were a witness,  
23 and we accommodated all the carriers.

24 I'm going to ask you if you would call the  
25 respondent. Let's find out what's going on. And we'll

1 go off the record and we'll reconvene about quarter of  
2 10:00.

3 MS. JACKSON: All right.

4 (Recess from 9:25 to 9:45)

5 THE COURT: What did you find out?

6 MS. JACKSON: I talked to Mr. Gamboa.  
7 Mr. Gamboa said he thought my motion would have been  
8 granted. He states that his earliest availability  
9 would be 2:00 this afternoon. He said that he is  
10 taking papers to another court on a motion.

11 THE COURT: Do you -- what's your  
12 schedule like this week? Do you have the whole week?

13 MS. JACKSON: I can, but it's very  
14 difficult for me. I am scheduled --

15 THE COURT: What I'm saying, do you want  
16 to start at 2:00, or do you want to start at 9:00 in  
17 the morning?

18 MS. JACKSON: I'd rather start at 2:00  
19 this afternoon because one thing I'm going to ask to do  
20 is renew my motion for summary judgment as an oral  
21 motion. So perhaps we can deal with the preliminary  
22 matters and the motion this afternoon and make a  
23 determination as to whether we need to bring witnesses  
24 in.

25 THE COURT: Let's reconvene at 2:00. If

1 you'll be kind enough to give him a call, tell him to  
2 do that. And we all -- we've all been late for court,  
3 and yours truly has done his share in private practice.

4 So we'll go off the record. We'll be  
5 excused, and let's reconvene at 2:00.

6 MS. JACKSON: All right. Thank you.

7 (Recess from 9:46 to 2:03)

8 THE COURT: Counsel, identify yourself  
9 for the record, please.

10 MS. JACKSON: Yes, your Honor. Nancy  
11 Jackson for claimant.

12 MR. GAMBOA: If it please the Court,  
13 John Gamboa for Accent Movers, Inc., the respondent.

14 THE COURT: It's G-a-m-b-l-e?

15 MR. GAMBOA: G-a-m-b-o-a, like in Rocky  
16 Balboa, just put a Gam in front of it.

17 THE COURT: And for the court reporter's  
18 benefit, if during the hearing there's something comes  
19 up you don't know how to spell, just raise your hand.  
20 Easier doing it that way than tearing your hair out at  
21 midnight trying to do the transcript. Sir?

22 MR. GAMBOA: For the record, our  
23 corporate representative is sitting next to me, now  
24 standing, Shane, S-h-a-n-e, Gibson, G-i-b-s-o-n.

25 THE COURT: Okay. Thank you. I



1 normally do that because I've had cases go several  
2 weeks and by the next day nobody can remember what was  
3 said, and it's just easier to assume if she gets  
4 confused we're all in trouble.

5 Ms. Jackson, you had some preliminary  
6 matters?

7 MS. JACKSON: Yes, your Honor. As a  
8 preliminary matter, the claimant would like to renew  
9 its motion for summary judgment. The claimant filed a  
10 motion for summary judgment, and it was served  
11 May 29th. That motion is pending before the Court, and  
12 I would like to renew that motion as an oral motion.  
13 I'm prepared to argue that motion orally or stand on  
14 the written pleadings at the Court's pleasure.

15 THE COURT: Okay. Counsel, I don't  
16 believe you had filed a response yet.

17 MR. GAMBOA: I haven't filed a response  
18 yet because I was under the impression that counsel has  
19 informed me she was filing a motion for continuance in  
20 this case --

21 THE COURT: Right.

22 MR. GAMBOA: -- and that I was going to  
23 file my motion for continuance on that. But I got a  
24 call saying to be here. We have not filed a response.  
25 We'd like additional time to file a response.

1 THE COURT: I don't think your time for  
2 filing is due yet.

3 MR. GAMBOA: I don't think so either,  
4 and that's why I was surprised we're going to trial if  
5 we're still arguing the summary judgment.

6 THE COURT: Well, I think what I'm going  
7 to do is without prejudice I think I'm going to deny  
8 the motion at this time but allow you to expand your  
9 argument and give Counsel time to file a response.

10 MR. GAMBOA: Or --

11 THE COURT: Or?

12 MR. GAMBOA: May I suggest, to assist  
13 the Court as expeditiously as possible, she's already  
14 got hers. After this hearing if the Court takes it  
15 under advisement, we will file our response and the  
16 Court can take it under submission.

17 THE COURT: Are you happy with that,  
18 Ms. Jackson?

19 MS. JACKSON: Yes, your Honor.

20 THE COURT: Okay. We'll do it that way.

21 MR. GAMBOA: Will the Court give us time  
22 now on the record as to when you would like our  
23 response done, or do we follow the guidelines?

24 THE COURT: I think it's easier to  
25 follow the guidelines unless there's some reason to

1 have it done earlier. But I don't have any problem  
2 with following the guidelines. I forget what the due  
3 date is.

4 MS. JACKSON: Due date would be 20 days  
5 from service plus five for mailing, so it would be the  
6 23rd.

7 THE COURT: Of June?

8 MS. JACKSON: Yes.

9 MR. GAMBOA: Next week.

10 THE COURT: Okay. Can you make that?

11 MR. GAMBOA: We'll do that, and then we  
12 will enter for submission.

13 THE COURT: Okay. And I can guarantee  
14 you you won't get an answer on the 24th because I'll be  
15 in Honolulu for a case, so --

16 MR. GAMBOA: The Court does not have my  
17 sympathy on that at all.

18 THE COURT: I'm sure you don't. That's  
19 a tough job. Somebody's got to do it.

20 Ms. Jackson, you also have a witness who as  
21 of last week there was a question about their  
22 availability, but you proffered this morning that the  
23 person may be available in a short window.

24 MS. JACKSON: Yes, my understanding is  
25 she is in the state of Texas. I had asked her to be

1 available today and tomorrow. I will give her a call  
2 when we know what our scheduling is going to be to see  
3 if she can appear tomorrow is what I'm making the  
4 assumption of, given the lateness of the hour today.

5 THE COURT: What I typically do,  
6 Counsel, is because it's an administrative hearing I  
7 try to give both parties flexibility on getting  
8 witnesses and testimony in. And I'm going to ask you  
9 at the conclusion of the hearing today, Ms. Jackson, if  
10 you'll consult with Counsel, if you can agree on a  
11 time. And I don't care what time it is tomorrow.  
12 We'll put her on as soon as she gets here and get her  
13 out of here. Any other preliminary matters?

14 MS. JACKSON: Nothing from claimant,  
15 your Honor.

16 THE COURT: Do you want to go off the  
17 record for a sec?

18 MR. GAMBOA: Yes.

19 THE COURT: Okay. Let's go off the  
20 record. I think he wants to talk to you.

21

22 (Recess from 2:08 to 2:14)

23 (Proceedings adjourned at 2:14 p.m.)

24

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1 STATE OF TEXAS

2 COUNTY OF TARRANT

3 REPORTER'S CERTIFICATE

4 HEARING IN RE ACCENT MOVERS, INC.

5 VOLUME 1

6 JUNE 15, 2009

7


8 I, the undersigned Certified Shorthand  
9 Reporter in and for the State of Texas, certify that  
10 the facts stated in the foregoing pages are true and  
11 correct.

12 I further certify that I am neither  
13 attorney or counsel for, related to, nor employed by  
14 any parties to the action in which this testimony is  
15 taken and, further, that I am not a relative or  
16 employee of any counsel employed by the parties  
17 hereto or financially interested in the action.

18 SUBSCRIBED AND SWORN TO under my hand and  
19 seal of office on this the 22nd day of June, 2009.

20

21



Karen L. Shelton, CSR, RDR, CRR

22

Texas CSR 7050, Exp. 12/31/10

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